


09/853,227

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Linda M. Sivik 44,982

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#7
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4/25/03

P&G Case 4519RC2R2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of	:	
Douglas Allan Royce et al.	:	Group Art Unit 1617
Serial No. 09/853,227	:	Confirmation No. 6354
Filed May 11, 2001	:	Examiner: Edward J. Webman.
For Shampoo Compositions	:	
With Cationic Polymers	:	

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

RESPONSE TO RESTRICTION REQUIREMENT UNDER 35 U.S.C. 121

In response to the October 22, 2002 Restriction Requirement received in connection with the above-identified application, the time for response being extended, pursuant to the fee charged to the Assignee's Deposit account in the papers submitted herewith, please consider the remarks made herein.

Invention Synopsis

The present invention relates to hair conditioning shampoo compositions comprising: a) from about 5% to about 50%, by weight, of a surfactant component selected from the group consisting of anionic surfactants, amphoteric surfactants, or a combination of anionic and amphoteric or zwitterionic surfactants where the amphoteric surfactants are anionic or zwitterionic at the pH of the composition; b) from about 0.01% to about 5%, by weight, of a water soluble, organic, cationic polymer hair conditioning agent having a cationic charge density of from about 0.1 meq/gram to about 1.2 meq/gram and wherein said water soluble, organic, cationic polymer hair conditioning agent has a molecular weight greater than 600,000; and c) an aqueous carrier.

04/28/2003 MPEP 2106.01-02, 2106.01-03, 2106.01-04, 2106.01-05, 2106.01-06, 2106.01-07, 2106.01-08, 2106.01-09, 2106.01-10, 2106.01-11, 2106.01-12, 2106.01-13, 2106.01-14, 2106.01-15, 2106.01-16, 2106.01-17, 2106.01-18, 2106.01-19, 2106.01-20, 2106.01-21, 2106.01-22, 2106.01-23, 2106.01-24, 2106.01-25, 2106.01-26, 2106.01-27, 2106.01-28, 2106.01-29, 2106.01-30, 2106.01-31, 2106.01-32, 2106.01-33, 2106.01-34, 2106.01-35, 2106.01-36, 2106.01-37, 2106.01-38, 2106.01-39, 2106.01-40, 2106.01-41, 2106.01-42, 2106.01-43, 2106.01-44, 2106.01-45, 2106.01-46, 2106.01-47, 2106.01-48, 2106.01-49, 2106.01-50, 2106.01-51, 2106.01-52, 2106.01-53, 2106.01-54, 2106.01-55, 2106.01-56, 2106.01-57, 2106.01-58, 2106.01-59, 2106.01-60, 2106.01-61, 2106.01-62, 2106.01-63, 2106.01-64, 2106.01-65, 2106.01-66, 2106.01-67, 2106.01-68, 2106.01-69, 2106.01-70, 2106.01-71, 2106.01-72, 2106.01-73, 2106.01-74, 2106.01-75, 2106.01-76, 2106.01-77, 2106.01-78, 2106.01-79, 2106.01-80, 2106.01-81, 2106.01-82, 2106.01-83, 2106.01-84, 2106.01-85, 2106.01-86, 2106.01-87, 2106.01-88, 2106.01-89, 2106.01-90, 2106.01-91, 2106.01-92, 2106.01-93, 2106.01-94, 2106.01-95, 2106.01-96, 2106.01-97, 2106.01-98, 2106.01-99, 2106.01-100

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Response to Restriction Requirement

Restriction of Applicants' claimed invention has been required under 35 U.S.C. §121.

The Office Action contends that restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-27, drawn to a composition, classified in class 525, subclass 54.21.
- II. Claims 28-37, drawn to a method of using, classified in class 514, subclass 881.

If Applicants elect Group I, election of a single disclosed species was further requested for each of the following:

- a. Election of a single disclosed species of a cationic polymer hair conditioning agent, Claims 6-7, 18-20.
- b. Election of a single disclosed species of an insoluble hair conditioning agent, Claims 11, 13-14, 16 and 17.

For the purpose of complying with the election request, Applicants provisionally elect, with traverse, Group I, Claims 1-27, drawn to a composition.

For the purpose of complying with the election request, Applicants provisionally elect, with traverse, the following species: 1) cationic cellulose polymer hair conditioning agent for Claims 6-7, 18-20; and 2) polydimethylsiloxane as an insoluble hair conditioning agent for Claims 11, 13-14, 16 and 17.

The restriction requirement is respectfully traversed herein.

The Examiner submits that the compositions of Group I and the method of using in Group II are distinct inventions as the method as claimed can be used to make a materially different product. Applicants respectfully submit that the claims of Group I and Group II are so closely interrelated and in order to preserve unity of invention, both groups should be prosecuted in the same application. The PTO examination would be simplified and duplicate searching eliminated by pursuing one as opposed to two or more applications. Applicants respectfully submit that it would not be unduly burdensome to search for and examine all of the claims in the present application. Restriction is proper only when the inventions are independent or distinct as claimed and it would be unduly burdensome to search for and examine all of the inventions in a single application (see MPEP 803). It is submitted that prosecution of all of the claims in this present single application would also be permitted and would indeed be quite appropriate. It is submitted that in the present case, any prior art search set up for the compositional claims of Group I would

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be coextensive with that for the method claims of Group II, because the novel compositions and methods involve the same compositional material.

Applicants also traverse the restriction requirement with respect to the species. The major reason for restriction requirements is the unduly burdensome effect in searching the art for a variety of distinct species. In this instance, since the present claims are directed to compositions as defined, searching the art would involve the body of art classified under Class 525, Subclass, 54.21.

Therefore, the fact that the claims recite several species would not necessarily place a serious burden on the Examiner to search the art and examine the entire application on the merits, even though it may include claims to independent or distinct inventions. (MPEP § 803) Applicants respectfully request withdrawal of the restriction requirement with respect to the species.

Conclusion

In view of the foregoing remarks, it is therefore respectfully submitted that the restriction requirement be withdrawn in the instant case and Claims 1-37 be permitted to be prosecuted in the same application. In the event that this restriction requirement is made final, **Applicants hereby provisionally elect, with traverse, Group I Claims 1-27**, drawn to a composition, holding Claims 28-37, drawn to a method of using, in abeyance under the provisions of 37 C.F.R. § 1.142(b) until final disposition of the elected claims. Further, **Applicants provisionally elect, with traverse, the following species in Group I:**

- 1) cationic cellulose polymer hair conditioning agent for Claims 6-7, 18-20;
- 2) polydimethylsiloxane as an insoluble hair conditioning agent for Claims 11, 13-14, 16 and 17, holding all other non-elected species in abeyance under the provisions of 37 C.F.R. § 1.142(b) until final disposition of the elected claims.

Respectfully submitted,
ROYCE ET AL.

By Linda M. Sivik
Linda M. Sivik
Agent for Applicant(s)

April 22, 2003

Customer No. 27752

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE
 RESPONSE/AMENDMENT

Case Docket No. 4519RC2R2

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 April 22, 2003

Linda M. Sivik 44,982

Signature

COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is a RESPONSE for the patent application:

Douglas A. Royce, et al. : Confirmation No. 6354
 Serial No. 09/853,227 : Group Art Unit 1617
 Filed 5/11/02 : Examiner E. J. Webman

Title: SHAMPOO COMPOSITIONS WITH CATIONIC POLYMERS

1. ☐ No additional fee is known to be required.
2. ☐ The fee has been calculated as shown below:

	(Col. 1)		(Col. 2)	(Col. 3)	OTHER THAN A SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA*	RATE	FEE
TOTAL	* 37	MINUS	** 37	= 0	x \$18 =	\$
INDEP.	* 2	MINUS	*** 2	= 0	x \$84 =	\$
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					+ \$280 =	\$
					TOTAL	\$

3. ☒ The Commissioner is hereby petitioned under 37 CFR §1.136(a) to grant any extension of time needed for timely response to the Office Action dated October 22, 2002 in the above-identified application to preserve pendency of said application. The processing fee under 37 CFR §1.17 has been determined as follows: \$1970.00 for a 5-month extension of time.
4. The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 16-2480. A duplicate copy of this sheet is attached.
 - a. ☒ Any patent application processing fees under 37 CFR §1.16.
 - b. ☒ Any patent application processing fees under 37 CFR §1.17.
5. The Commissioner is hereby authorized to make any additional copies of this sheet needed to accomplish the purposes provided for herein and to charge any fee for such copies to Deposit Account No. 16-2480.

Linda M. Sivik

Attorney or Agent for Applicant(s)

Registration No. 44,982

(513) 626-4122

April 22, 2003

Customer N . 27752

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**FACSIMILE TRANSMITTAL SHEET &
CERTIFICATE OF TRANSMISSION UNDER 37 CFR §1.8**

**TO: Assistant Commissioner of Patents
United States Patent and Trademark Office
Attn: Examiner Edward J. Webman
Fax No. (703) 305-3592 908.4242
Phone No. (703) 308-4432**

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**FROM: Linda M. Sivik
Fax No. (513) 626-1355
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APR 23 2003**GROUP 1600**

Listed below are the item(s) being submitted with this Certificate of Transmission:

- 1) Transmittal for Response; including Request for 5-month Extension of Time, and authorization to charge fee to Deposit Account;
- 2) Response to Restriction Requirement (3 pages);

Number of Pages Including this Page: 6

Douglas A. Royce, et al.

Serial No. 09/853,227

Filed 5/11/02

: Confirmation No. 6354

: Group Art Unit 1617

:

Title: SHAMPOO COMPOSITIONS WITH CATIONIC POLYMERS

Case 4519RC2R2